



Pensions Act 2004

2004 CHAPTER 35

PART 5

OCCUPATIONAL AND PERSONAL PENSION SCHEMES: MISCELLANEOUS PROVISIONS

Annual increases in rate of pensions

278 Annual increase in rate of certain occupational pensions

(1) Section 51 of the Pensions Act 1995 (annual increase in rate of certain occupational pensions) is amended in accordance with subsections (2) to (6).

(2) In subsection (1)—

- (a) omit “and” at the end of sub-paragraph (i) of paragraph (a),
- (b) at the end of sub-paragraph (ii) of that paragraph insert—

“(iii) in the case where the pension becomes a pension in payment on or after the commencement day, is not a money purchase scheme, and”, and

(c) for paragraph (b) substitute—

“(b) the whole, or any part of, the pension is attributable—

- (i) to pensionable service on or after the appointed day, or
- (ii) in the case of money purchase benefits where the pension is in payment before the commencement day, to payments in respect of employment carried on on or after the appointed day, and

(c) apart from this section—

- (i) the annual rate of the pension, or
- (ii) if only part of the pension is attributable as described in paragraph (b), so much of the annual rate as is attributable to that part,

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would not be increased each year by at least the appropriate percentage of that rate.”

- (3) In subsection (2) after “money purchase benefits” insert “where the pension is in payment before the commencement day”.
- (4) In subsection (4)(b) for “5 per cent per annum” substitute “—
- (i) in the case of a category X pension, 5% per annum, and
 - (ii) in the case of a category Y pension, 2.5% per annum.”
- (5) After subsection (4) insert—
- “(4A) For the purposes of this section, a pension is a category X pension if it is—
- (a) a pension which became a pension in payment before the commencement day, or
 - (b) a pension—
 - (i) which becomes a pension in payment on or after the commencement day, and
 - (ii) the whole of which is attributable to pensionable service before that day.
- (4B) For the purposes of this section, a pension is a category Y pension if it is a pension—
- (a) which becomes a pension in payment on or after the commencement day, and
 - (b) the whole of which is attributable to pensionable service on or after the commencement day.
- (4C) For the purposes of applying this section in the case of a pension—
- (a) which becomes a pension in payment on or after the commencement day,
 - (b) part of which is attributable to pensionable service before the commencement day, and
 - (c) part of which is attributable to pensionable service on or after that day, each of those parts of the pension is to be treated as if it were a separate pension.”
- (6) In subsection (5)—
- (a) for “the provisions of subsections (2) and (3)” substitute “any of the provisions of this section”, and
 - (b) in paragraph (a), after “appointed day” insert “or the commencement day”.
- (7) After that section insert—

“51ZA Meaning of “the appropriate percentage”

- (1) For the purposes of section 51(1)(c) and (2), “the appropriate percentage” in relation to an increase in the whole or part of the annual rate of a pension—
- (a) in the case of a category X pension, means the revaluation percentage for the latest revaluation period specified in the order under paragraph 2 of Schedule 3 to the Pension Schemes Act 1993 (revaluation of

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accrued pension benefits) which is in force at the time of the increase, and

- (b) in the case of a category Y pension, means whichever is the lesser of—
- (i) the revaluation percentage for the latest revaluation period specified in the order under paragraph 2 of Schedule 3 to the Pension Schemes Act 1993 which is in force at the time of the increase, and
 - (ii) 2.5%.

(2) In this section “the revaluation percentage” and “the revaluation period” have the same meaning as in paragraph 2 of Schedule 3 to the Pension Schemes Act 1993.”

- (8) In section 54(3) of that Act (sections 51 to 53: supplementary), at the appropriate place insert—

““the commencement day” means the day appointed for the coming into force of section 278 of the Pensions Act 2004 (amendments to section 51),”.

279 Annual increase in rate of certain personal pensions

- (1) Section 162 of the Pensions Act 1995 (c. 26) (annual increase in rate of certain personal pensions) is amended in accordance with subsection (2).

- (2) In subsection (1) omit “and” at the end of paragraph (a) and for paragraph (b) substitute—

- “(b) the pension became a pension in payment before the commencement day,
- (c) the whole, or any part of, the pension is attributable to contributions in respect of employment carried on on or after the appointed day, and
- (d) apart from this section—
- (i) the annual rate of the pension, or
 - (ii) if only part of the pension is attributable as described in paragraph (c), so much of the annual rate as is attributable to that part,

would not be increased each year by at least the appropriate percentage of that rate.”

- (3) In section 163(3) of that Act (section 162: supplementary)—

- (a) in the definition of “appropriate percentage”, for the words from “revaluation period” to the end substitute “latest revaluation period specified in the order under paragraph 2 of Schedule 3 to the Pension Schemes Act 1993 (revaluation of accrued pension benefits) which is in force at the time of the increase (expressions used in this definition having the same meaning as in that paragraph of that Schedule)”, and

- (b) at the appropriate place insert—

““the commencement day” means the day appointed for the coming into force of section 279 of the Pensions Act 2004 (amendments to section 162),”.

280 Power to increase pensions giving effect to pension credits etc

(1) Section 40 of the Welfare Reform and Pensions Act 1999 (c. 30) (power of the Secretary of State to increase pensions provided to give effect to certain rights) is amended as follows.

(2) In subsection (1), for “5%” substitute “the maximum percentage”.

(3) In subsection (2), for “This” substitute “Subject to subsection (2A), this”.

(4) After subsection (2) insert—

“(2A) Subsection (2) does not apply to pensions which—

- (a) are money purchase benefits, and
- (b) become pensions in payment on or after the commencement day.

(2B) For the purposes of subsection (1) the “maximum percentage” means—

- (a) 5% in a case where—
 - (i) the pension is in payment before the commencement day, or
 - (ii) the pension is not in payment before the commencement day but the entitlement to the relevant pension credit arose before that day, and
- (b) 2.5% in a case where the entitlement to the relevant pension credit arises on or after the commencement day.”

(5) In subsection (3), at the appropriate places insert—

““commencement day” means the day appointed for the coming into force of section 280 of the Pensions Act 2004 (amendments to section 40);”

““money purchase benefit” has the meaning given by section 181(1) of the Pension Schemes Act 1993;”

““relevant pension credit” means the pension credit to which the eligible pension credit rights or, as the case may be, the safeguarded rights are (directly or indirectly) attributable;”.